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NOTE: The accounts of recent trials, verdicts and settlements contained in this newsletter are intended to illustrate the experience of the firm in a variety of litigation areas. Each case is unique, and the results in one case do not necessarily indicate the quality or value of any other case.



## \$50 Million Verdict Affirmed by Judges

Three judges from the Fourth District Court of Appeal in West Palm Beach, handed down a decision Aug. 25, affirming a Cooper City, Fla., woman's \$50 million punitive damage verdict. The plaintiff, Angelica Palank, with the help of attorneys Christian Searcy and Greg Barnhart, filed suit against CSX Transportation, Inc., for the death of her husband Paul in a train wreck. Mr. Palank was a Miami Police Sergeant.

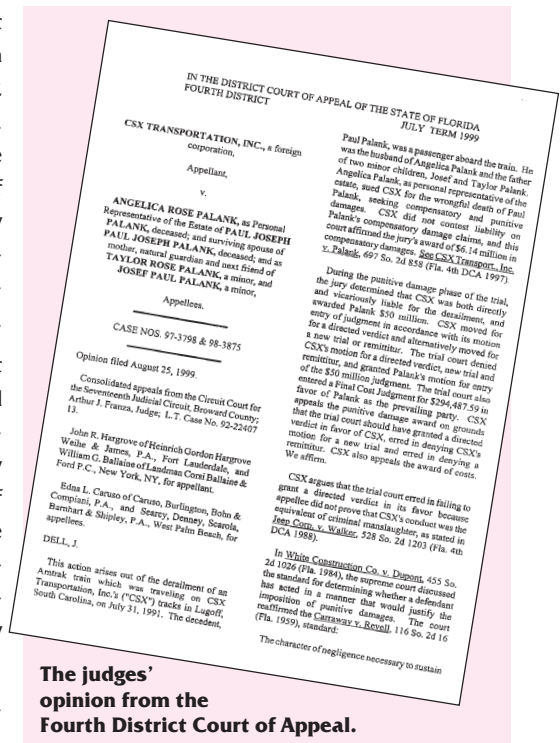
On July 31, 1991, eight people, including Palank, were killed in Lugoff, S.C., when the last six passenger cars of a Miami-to-New York Amtrak train went onto a sidetrack and smashed into nine freight cars. By Federal Safety Regulations, railroads are required to carefully inspect mainline switches at least twice a week. A faulty mainline switch, which was known by CSX to be broken for at least 7 1/2 months, opened and caused the train to derail. CSX, a Jacksonville based company, owns the Lugoff tracks and approximately 30,000 miles of track between New York and Miami. Records show that an audit done by the Federal Railroad Administration (FRA) as early as 1987, showed gross deficiencies in CSX's staffing and inspection practices.

On July 30, 1997, a jury rendered a verdict that the accident was caused by a poorly maintained railroad track and awarded Mrs. Palank the damages. On Oct. 10, 1997, Broward Circuit County Judge Arthur Franza upheld the jury's verdict of \$50 million. In his 19 page order he wrote, "These inspections were not professional, not reasonable and did not comply with CSX and FRA regulations. It should have been known to eventually lead to, and end in, tragedy."

Shortly after the order was released, CSX appealed the decision. **continued on page seven**



Sgt. Paul Palank in 1984.



The judges' opinion from the Fourth District Court of Appeal.

## **\$50 Million Verdict Affirmed By Judges**

*(Continued from page one.)*

This recent seven-page opinion was written by the Honorable Judge John Dell, and Honorable Judges Mark Polen and Matthew Stevenson concurred. Part of the opinion reads, "This Court finds the evidence to be clear and convincing, sufficiently showing that the Defendant's conduct in breaching its duty was deliberate, reckless, willful, and wanton, evincing a reckless disregard for the safety of rail passengers and the public at large." Another part of the opinion reads "This Court does not find that the \$50 million verdict in the instant matter was influenced by prejudice, passion, or corruption or that the jury misconceived the merits of this case."

Ms. Palank, a mother of two and a city commissioner in Cooper City, will use a major portion of the proceeds to set up a foundation which will help abused, abandoned and neglected children. ♦

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***CSX train wreck on July 31,1991.***